



THE WASTE REPORT

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A NEW PLACE TO ~~PARK~~ WASTE TAXPAYER MONEY BUREAU OF INDIAN AFFAIRS CONSIDERS BUILDING CASINO PARKING LOT

It is an old problem. You are trying to get your gamble on, and you cannot find a place to park. Well, maybe for some anyway. If this is a problem you face, and you like to gamble in Apache, OK, we have some good news for you. But if you are a regular taxpayer, you probably will not like this.

The Bureau of Indian Affairs (BIA), as part of the Buy Indian Act, is seeking to spend as much as \$500,000 to construct a parking lot for the Golden Eagle Casino in Apache, OK.¹

PARKING LOTS NOT ALLOWED

It seems pretty crazy that the taxpayer is being asked to finance the construction of a parking lot for a casino, **but the project itself might not even comply with the BIA regulations the solicitation cites.**

The project is currently in the pre-solicitation stage but is designated to be carried out under the authority of the Buy Indian Act. This act gives special contracting authority to the BIA to bypass normal contracting rules to give preference to Indian Economic Enterprises – majority Native American-owned businesses. It is supposed to be something of a win-win, building infrastructure on Native American lands and employing Native American-owned businesses.

However, BIA's own overview of the program specifically notes that projects funded under this program can only be for "covered construction," which involves roads on Native American-owned lands or to Native American-owned lands.² Parking lots and facilities are not mentioned and thus not eligible.

BIA may be resting on a kind of catch-all definition that includes "planning and other needs and facilities

associated with roads."³ Even that seems like a stretch.

BIA classified this project under North American Industry Classification Code "237310 – Highway, Street, and Bridge Construction." While painting parking lot lines is covered under this code, it states that "[c]onstructing parking lots, private driveways, sidewalks, or erecting billboards – are classified in Industry NAICS 238990, All Other Specialty Trade Contractors."⁴

So, even if BIA were trying to use ambiguity in the Buy Indian Act regulation as justification, the project is not even classified under the proper work code.

BAD BET CASINO

Even if such a project were allowed, this one sounds like a bad bet. The Golden Eagle Casino, where the parking lot is to be built, and a separate casino owned by the same tribe have had something of a tumultuous past.

Both casinos closed in the summer of 2013 (apparently Golden Eagle has reopened), not because of parking problems but amidst a power struggle and allegations of corruption among tribal leadership. One faction claimed the other was stealing money from the casinos; the second faction questioned the legitimacy of the first's authority.⁵

At least one Golden Eagle employee told local news he witnessed a tribal member mishandling revenues.⁶

Who's to say which side is right? **One thing is for sure: this is probably not a venture Uncle Sam should be taking a bet on with taxpayer money.**

³ibid.

⁴<https://classcodes.com/lookup/naics-code-237310/>

⁵<http://www.news9.com/story/22973073/ok-casino-closes-suddenly-leaving-workers-without-paychecks>

⁶<http://www.news9.com/story/22984829/another-apache-casino-shuts-down-employees-left-with-uncertainty>

¹https://www.fbo.gov/index?s=opportunity&mode=form&id=824581b0b155722ba8fa093e286084de&tab=core&_cview=0

²http://farsite.hill.af.mil/reghtml/regs/other/diar/1480.htm#P32_2610